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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 97-149

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The agency may wish to provide for an initial applicability section to set forth when the new provisions will first apply. Also, the agency may wish to address the issue of notice with regard to the new conduct rules to assure that students, faculty and staff, as well as the public, are made aware of the changes in rules of conduct.

b. The analysis would be more complete if it contained a description of the applicable penalty sections and also indicated the relationship between the conduct rules and the criminal and statutory provisions relating to conduct on university lands.

c. It is not clear why the rule is drafted with separate sections for petty theft in s. UWS (41) (a) and (b). Could these be combined, or are they separate because there may be different penalties applied to violations?

d. The specificity of the fire safety provisions could be problematic. For example, as drafted, no student, faculty, staff or member of the public would be permitted to light a candle under s. UWS 18.06 (11) (a) on any university property unless the site had been designated by the chief administrative officer and that site had been established for the purpose of candle-burning. The agency may wish to review this provision of the rule to assure that it reflects the intended policy.

e. Under s. UWS 18.06 (11) (c), would the scope of the rule be clearer if the term “throw away” were replaced by “discard”?

f. The agency may wish to carefully review the prohibition on use or possession of “drug paraphernalia” to assure that it does not restrict the legitimate use of items used in research relating to controlled substances or to items used in a medical setting. It may also be advisable to include specific reference to the statutory exclusions contained in s. 761.571 (1) (b), Stats.

g. Under s. UWS 18.06 (42), relating to assaultive behavior, a person may not intentionally “shove” or “subject another person to physical contact” without the consent of the person. The agency may wish to review and further delineate the scope of this provision; as drafted, the literal application of the provision could result in citations being issued under circumstances not normally considered “assaultive” behavior, for example, self-defense. While this may be the intent, the rule should be clarified to assure that the intent and application of the rule is clear.

h. In s. UWS 18.06 (46), why is the word “solely” used in pars. (c) and (d), but not in pars. (a), (b), (e) and (f)?

i. Is the loitering provision in s. UWS 18.06 (48) sufficiently specific to allow for consistent application and enforcement of its terms? Also, under s. UWS 18.06 (48) (b), does the term “currently enrolled university students” need further clarification or definition? For example, does the term refer to any student enrolled in a university or only to a University of Wisconsin (UW) student or only to a student enrolled in a specific UW institution?

j. Neither the rule nor the analysis provides any indication as to what appeal or recourse a person issued a citation under ch. UWS 18 is entitled to. Is there any procedure currently in place to contest the issuance of ch. UWS 18 citations? The agency may wish to reference this procedure if one currently exists, in the rule or analysis. If none exists currently, the agency may wish to consider creating such a procedure or directing each campus or entity to create such a procedure.